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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,419	06/17/2005	Katsuhiko Hiramatsu	L9289.05147	8011

52989 7590 07/13/2007
STEVENS, DAVIS, MILLER & MOSHER, LLP
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WASHINGTON, DC 20036

EXAMINER

GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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07/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,419	Applicant(s) HIRAMATSU, KATSUHIKO	
	Examiner Tilahun B. Gesesse	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,7-10 and 12 is/are allowed.
- 6) ☒ Claim(s) 3-6 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to applicant's amendment and response filed April 18, 2007 , in which claims 1 through 12 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-6, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al "Yamada" (US 6,275,711B1).

Claim 3, Yamada teaches a communication terminal apparatus (see abstract and figures 1 and 5, column 1, lines 22-30).

-a reception section that receives transmit power control commands sent from a plurality of base station apparatuses (see column 2, line 2-15, col. 4, line 51-col.5, line 50 and figure 5).

-a selection section that selects a main base station apparatus having the best channel condition among the plurality Of base station apparatuses based on a history of received transmit power control commands(see column 4, line 9-49, and figure 4)

-a transmission section that transmits a signal using an error coding scheme and a modulation scheme notified from the selected main base station apparatus (see col. 4, line 61-65, column 5, line 23-25 and figure 5).

Claims 4-5, Yamada teaches the selection section stores the received transmit power control commands for a predetermined time and selects a base station apparatus having the largest difference obtained by subtracting the number of transmit power control commands instructing an increase from the number of transmit power control commands instructing a decrease as the main base station apparatus (see column 4, lines 51-column 5, line 50 and figure 5) in which upon receiving the TPC command to decrease and increase based on the CRC and modulating frame error..

Claim 6, Yamada teaches a control section that determines transmit power according to the received transmit power control commands and a calculation section that calculates extra transmit power by subtracting the determined transmit power from the maximum transmittable transmit power (column 4, lines 9-column 5, line 50 and figures 4-6) in which judging and comparing the TPC command due to calculating or measuring the power control

Claim 11, Yamada teach a method for communicating with a communication terminal apparatus (see abstract and figures 1 and 5, column 1, lines 22-30).

-a reception section that receives transmit power control commands sent from a plurality of base station apparatuses (see column 2, line 2-15, col. 4, line 51-col.5, line

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50 and figure 5).

-a selection section that selects a main base station apparatus having the best channel condition among the plurality Of base station apparatuses_based on a history of received transmit power control commands(see column 4, line 9-49, and figure 4)

-a transmission section that transmits a signal using an error coding scheme and a modulation scheme notified from the selected main base station apparatus (see col. 4, line 61-65, column 5, line 23-25 and figure 5).

Allowable Subject Matter

4. Claims 1-2,7-10,12 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 3-6,11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 571-272-7899.

The Central FAX Number is 571-273-8300. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number .

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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TG

July 2, 2007


TILAHUN GESESSE
PRIMARY EXAMINER